

IN RE: PETITION FOR ZONING VARIANCE
N/S Forge Road, 625' E of the
c/l of Randall Avenue
(5114 Forge Road)
11th Election District
5th Councilmanic District
John O. Goodwin, Jr.
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 92-188-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 77.77 feet in lieu of the required 150 feet and to permit side yard setbacks of 10 feet each in lieu of the minimum required 20 feet and a combined sum of the side yards of 20 feet in lieu of the required combined sum of 50 feet, for a proposed dwelling in accordance with Petitioner's Exhibit 1.

The Petitioner appeared and testified. Appearing as a Protestant in the matter was Lorraine K. Shifflett.

Testimony indicated that the subject property, known as 5114 Forge Road, consists of 43,600 sq.ft. zoned D.R. 1 and is presently unimproved. Petitioner testified he purchased the subject property in January 1989 with the intention of constructing a dwelling thereon. Testimony indicated that he was advised at that time by the previous owner that he had a building permit for the property. Petitioner currently resides with his parents who have rented the adjoining property, known as 5112 Forge Road, for the past 25 years. Said property is owned by the Protestant, Lorraine K. Shifflett. Testimony indicated that as a result of an existing 15-foot BG & E right-of-way easement running along the east side property line, and there being no available adjoining property on the west side

from which to obtain the additional land needed to meet zoning requirements, the relief requested is necessary in order to develop the property as proposed. Petitioner testified the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community and to require strict compliance with the zoning regulations will create practical difficulty and unreasonable hardship for him.

Lorraine Shifflett, property owner of 5112 Forge Road, appeared and testified as a Protestant. Ms. Shifflett testified that she was concerned about the value of her property being adversely affected by the proposed development of this property and that in her opinion, the relief requested was for too great a variance.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, as hereinafter modified, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to

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the public health, safety, and general welfare. In the opinion of this Deputy Zoning Commissioner, a variance of 17 feet for the side yard adjoining 5112 Forge Road will sufficiently meet Petitioner's needs without creating practical difficulty and unreasonable hardship for him and at the same time, provide a greater combined sum of the side yards required.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested, as modified, should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 5th day of December, 1991 that the Petition for Zoning Variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 77.77 feet in lieu of the required 150 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a side yard setback of 10 feet on the east side property line and 17 feet on the west side property line in lieu of the minimum required 20 feet for each and a combined sum of the side yards of 27 feet in lieu of the required combined sum of 50 feet, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded and Petitioner would be required to return and be responsible for returning said property to its original condition.
- 2) Prior to the issuance of any permits, Petitioner shall submit for review and approval by the Deputy Zoning Commissioner, a revised site plan incorporating the modified relief granted herein.

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3) There shall be no structures of any kind permitted in the front yard of the subject property.

4) There shall be no further subdivision of the subject property.

5) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 1802.3.C.1 of the B.C.Z.R. to permit side yard setbacks of 10 feet each in lieu of the minimum required 20 feet and a combined sum of the side yards of 20 feet in lieu of the required combined sum of 50 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 12/5/91
By [Signature]

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Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

December 5, 1991

Mr. John O. Goodwin, Jr.
5112 Forge Road
Perry Hall, Maryland 21128

RE: PETITION FOR ZONING VARIANCE
N/S Forge Road, 625' E of the c/l of Randall Avenue
(5114 Forge Road)
11th Election District - 5th Councilmanic District
John O. Goodwin, Jr. - Petitioner
Case No. 92-188-A

Dear Mr. Goodwin:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance, as modified, has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Ms. Lorraine K. Shifflett
4124 Kahlston Road, Baltimore, Md. 21236

People's Counsel

File



Petition for Variance

to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1 - to allow a lot width of 77.77' in lieu of the required 150' and to allow side yard setbacks of 10' and a combination of 20' in lieu of the required 20' and a combination of 50'.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1 - to allow a lot width of 77.77' in lieu of the required 150' and to allow side yard setbacks of 10' and a combination of 20' in lieu of the required 20' and a combination of 50'.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1 - to allow a lot width of 77.77' in lieu of the required 150' and to allow side yard setbacks of 10' and a combination of 20' in lieu of the required 20' and a combination of 50'.

The proposed house with present zoning (due to the width of the property) can't be placed on the lot so that it faces Forge R.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

John O. Goodwin, Jr.
(Type or Print Name)
[Signature]
Signature

Address

City and State

5112 Forge Rd. 256-5903

Perry Hall, MD 21128

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

City and State

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING - 1/2HR. + 1HR.

AVAILABLE FOR HEARING

MON./TUES./WED. - NEXT TWO MONTHS

ALL OTHER

REVIEWED BY: DATE

ZONING DESCRIPTION

Beginning on the north side Forge Road 30' wide at a distance approximately 625' easterly from the center line of Randall Avenue, continuing 1 acre +/- located in the 11th Election District, 5th Councilmanic District, also known as 5114 Forge Road.

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/7, 1991.

NORTHEAST TIMES BOOSTER and the
NORTHEAST TIMES REPORTER

Publisher

\$70.76

CERTIFICATE OF PUBLICATION

TOWSON, MD., 11/7, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 11/7, 1991.

THE JEFFERSONIAN,

S. Zeke Orlan
Publisher

\$70.76

NOTICE OF HEARING
The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property described herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
Case Number: 92-188-A
N/S Forge Road, 625' E of c/l of Randall Avenue
5114 Forge Road
11th Election District
5th Councilmanic District
Petitioner(s):
John O. Goodwin, Jr.
Hearing Date: Tuesday, November 26, 1991 at 10:00 a.m.
Petitioner to allow a lot width of 77.77 feet in lieu of the required 150 feet and to allow a side yard setback of 10 feet and a combination of 20 feet in lieu of the required 20 feet and a combination of 50 feet.
LAWRENCE E. SCHMIDT
Zoning Commissioner of Baltimore County
NJ111027 November 7, 1991

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Date

Account: R-0016150
Number

Cashier Validation

Please Make Checks Payable To: Baltimore County
Baltimore County, Maryland

DATE: 11-15-91

John O. Goodwin, Jr.
5112 Forge Road
Perry Hall, Maryland 21128

RE:
CASE NUMBER: 92-188-A
N/S Forge Road, 625' Ely of c/l Randall Avenue
5114 Forge Road
11th Election District - 5th Councilmanic
Petitioner(s): John O. Goodwin, Jr.
HEARING: TUESDAY, NOVEMBER 26, 1991 at 10:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 95.76 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THIS ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

OCTOBER 28, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 113, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 92-188-A
N/S Forge Road, 625' Ely of c/l Randall Avenue
5114 Forge Road
11th Election District - 5th Councilmanic
Petitioner(s): John O. Goodwin, Jr.
HEARING: TUESDAY, NOVEMBER 26, 1991 at 10:00 a.m.

Variance to allow a lot width of 77.77 feet in lieu of the required 150 feet and to allow a side yard setbacks of 10 feet and a combination of 20 feet in lieu of the required 20 feet and a combination of 50 feet.

Zoning Commissioner of
Baltimore County

cc: John O. Goodwin, Jr.

November 18, 1991

Mr. John O. Goodwin, Jr.
5112 Forge Road
Perry Hall, MD 21128

RE: Item No. 198, Case No. 92-188-A
Petitioner: John O. Goodwin
Petition for Variance

Dear Mr. Goodwin:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Your petition has been received and accepted for filing this 16th day of October, 1991.

Arnold Jablon
DIRECTOR

Received By:

James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: John O. Goodwin

Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Bertoldi Property, Item No. 172
Koss Property, Item No. 192
Pitts Property, Item No. 193
Welmer Property, Item No. 196
Frey Property, Item No. 197
Goodwin Property, Item No. 198
Pettit Property, Item No. 199
McQuain Property, Item No. 200
Osment Property, Item No. 201
Shapiro Property, Item No. 203
Chaney Property, Item No. 204
Colleran Property, Item No. 207
Fisher Property, Item No. 208
Wilson Property, Item No. 211

In reference to the petitioners' request, the staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/rdn

ITMS172/TXTROZ

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

November 4, 1991

TO: Arnold Jablon, Director
Zoning Administration and Development Management

FROM: DIVISION OF GROUND WATER MANAGEMENT

SUBJECT: Zoning Item #198, Zoning Advisory Committee Meeting of October 29, 1991, John O. Goodwin, Jr., N/S Forge Road, 625' Ely of centerline Randall Avenue (#5114 Forge Road), D-11, Public Water and Private Sewer

COMMENTS ARE AS FOLLOWS:

Soil percolation tests have been conducted.

The results are valid until September 27, 1994

SSF:rmp
198ZNG/GWRMP

RECEIVED
NOV 8 1991

ZONING OFFICE

700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(301) 887-4500

OCTOBER 29, 1991

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: JOHN O. GOODWIN, JR.

Location: #5114 FORGE ROAD

Item No.: 198 Zoning Agenda: OCTOBER 29, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: [Signature] Noted and Approved [Signature]
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

RWB: 6

R.JF/lvc

RR491/RFS91

R8491/RES91

NAME John O Goodwin JR 5112 FORGE RD.
PERRY HALL MD. 21128

**PETITIONER'S
EXHIBIT 1**

Pettitioner's
Exhibit 2
Photographs (5)
Case 92-188-A